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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,869	02/04/2002	David J. Cline	1454.2	6059

7590 11/04/2002

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EXAMINER

POLK, SHARON A

ART UNIT	PAPER NUMBER
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2836

DATE MAILED: 11/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/066,869

Applicant(s)

CLINE ET AL.

Examiner

Sharon Polk

Art Unit

2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-23, 27, 28 and 54-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-23, 27, 28, and 54-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 20-23, 27-28, have been considered but are moot in view of the new ground(s) of rejection.

### ***Comment***

2. The examiner requests that applicant's next amendment incorporate the status of the divisional 09/461,561, filed November 30, 1999.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

~~(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.~~

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 20, 27, 54, 55, 59 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendell, US 5,616,239 in view of Hart et al., US 4,819,909.**

**With regards to claims 20, 27, 54, 55, 59 and 63, Wendell teaches**

a spa or swimming pool (12), including a pool water holding structure, a method for releasing water into the water holding structure, comprising:

providing a valve (V1-V5) connected to a city water supply (which reads on a water supply line), the valve responsive to valve control signals to open and close (col. 5, lines 62-64),

wherein the valve (V5) in an open state releases water from the water supply line into the water holding structure, and in a closed state prevents water from flowing from the water supply line into the water holding structure;

providing an electronic control system (100) responsive to a user commands ~~through a control panel (116) to generate the valve control signals (col. 3, lines 59-61);~~

entering a user command through the control panel to actuate the valve (col. 5, lines 38-41); opening the valve in response to the user command (col. 5, lines 64-67, col. 6, lines 44-53);

**Wendell teaches the claimed invention except for** automatically closing the valve after a predetermined time has elapsed after opening the valve.

**Hart et al. teach** the claimed limitation (col. 1, lines 7-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wendell with the teachings of Hart et al. for the purpose of providing a self-closing valve having

an accurate metering assembly to regulate the volume of water discharged over a predetermined period of elapsed time (col. 1, lines 49-52).

With regard to **claim 54**, Wendell teaches monitoring water parameters including water temperature and a water level sensor signal (col. 3, lines 15-39); in response to a water level sensor signal indicative of a low water level in the water holding structure, automatically opening a water supply valve connected to a water supply line to release water into the water holding structure from a water supply line (col. 7, lines 27-31).

**Claims 21, 22, 56, 57, 60, 61, 64, 65, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendell as modified by Hart et al. as applied to claims 20, 27, 54, 55, 59 and 63 above, and further in view of Tompkins et al., US 5,361,215.**

With regard to **claims 21, 22, 56, 57, 60, 61, 64, and 65**, Wendell as modified by Hart et al. teach the claimed invention except for setting the predetermined time during a program mode, storing in an electronic memory a time value corresponding to a predetermined time, and the controller system being responsive to user commands manually entered commands entered through the control panel.

Tompkins et al. teach the claimed features (col. 3, lines 4-7, 34-43, fig. 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wendell as modified by Hart et al. with the teachings of Tompkins et al. for the purpose of providing a spa control system which accurately and efficiently controls the

operation of the spa and is not adversely affected by the corrosive environment surrounding the spa (col. 1, lines 61-64).

With regard to **claim 66**, Tompkins et al. teach a control panel including user-actuated buttons to enter user commands (fig. 5). However, Tompkins et al. does not expressly teach the controller system monitoring the state of the button to detect user actuations. However, this feature is inherent for the purpose of carrying out the desired action of the user. If the system can not monitor/detect the state of the button, to see if it has been pressed, then the system will not be perform the desired function of the user.

**Claims 23, 58, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendell as modified by Hart et al. as applied to claims 20, 27, 54, 55, 59 and 63 above, and further in view of Sterghos et al., US 5,730,861.**

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With regard to **claims 23, 58, and 62**, Wendell as modified by Hart et al. teach the claimed invention except for automatically closing the valve if the water level reaches an overfill level during the predetermined time. Sterghos et al. teach the claimed features (col. 6, lines 29-41).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wendell as modified by Hart et al. with the teachings of Sterghos et al. for the purpose of providing new types of multiport valves and water level sensors that are particularly conducive to the present automated control (col. 2, lines 38-40).

***Pertinent Prior Art***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent Nos. 3,997,925, 4,042,984, 4,112,680, 4,415,446, 5,052,812 disclose control systems relating to water being released into holding structures. US Patent No. 4,998,673 discloses an automatic spray head.

***Communication with the PTO***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Polk whose telephone number is 703-308-6257. The examiner can normally be reached on M-F 7-3:30.

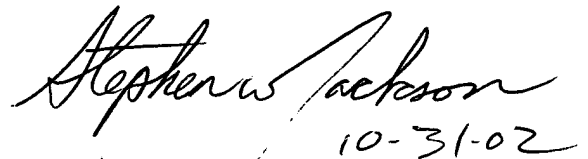
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on 703-308-3119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

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October 21, 2002

Sharon Polk  
Patent Examiner – Art Unit 2836



10-31-02

STEPHEN W. JACKSON  
PRIMARY EXAMINER